

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

ELOISE J. DUFORD,)	
)	DOCKET NO.: PT-1998-23
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FACTUAL BACKGROUND,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on August 5, 1999, in the City of Polson, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law. The taxpayer, Eloise Duford (Duford), presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Jackie Ladner (Ladner), supervising appraiser, and Deborah Gafford (Gafford), appraiser, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FACTUAL BACKGROUND

1. Due, proper and sufficient notice was given of this matter, the hearing, and of the time and place of the hearing. All parties

were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

Lots 1 and 2B, Block 1 in Polson Hillside Addition and Lots 11B and 11C in Country side Estates Amended and tract in NE/SW, Section 10, Township 22, Range 20, County of Lake, State of Montana, Land and Improvements thereon. (Assessor's Code #8110).

3. For the 1998 tax year, the DOR appraised the subject property at a value of \$47,561 for the land and \$96,839 for the improvements.

4. The taxpayer appealed to the Lake County Tax Appeal Board requesting a reduction in value to \$24,016 for the land and \$64,839 for the improvements.

5. The County Board denied the appeal stating: *"Appellant spoke of but did (sic) present any evidence to support her appeal for reduction in value."*

6. The taxpayer then appealed that decision to this Board stating:

"I believe: Biased hearing - DOR memos misrepresents law (1993)(1996) - conflicts of interests - only sales data accepted - unequal valuations ignored - DOR negligence - unequal opportunity for data. I need a copy of the hearing transcript before the hearing date."

TAXPAYER'S CONTENTIONS

Duford contends that errors have been made on neighboring properties and that the Department has not appraised the properties

in the area equitably.

Taxpayer's Exhibit 1 consists of a copy of a property record card with a diagram of a neighboring lot. Duford testified an error had been made in the calculation of the total square footage of this lot.

Taxpayer's Exhibit 2 is a copy of the DOR's "Montana Comparable Sales". This exhibit was presented by the DOR at the CTAB hearing.

Taxpayer's Exhibit 3 is a copy of four real estate listings in the area from 1993.

DOR'S CONTENTIONS

DOR's Exhibit A consists of two plat maps, illustrating the location of the subject along with the locations of recent vacant land sales.

DOR's Exhibit C is a listing of four recent land sales in the subject neighborhood. This exhibit illustrates the following:

SALES NEIGHBORHOOD 100-5				
LOT	SALE DATE	SIZE	SALE	\$/SF
X22	6/96	12,000SF	\$19,500	\$1.625
X06	10/96	6,800SF	\$14,000	\$2.058
X01	8/96	14,200SF	\$27,600	\$1.944
X10	1/94	20,200SF	\$22,500	\$1.390
AVG \$/SF				\$1.75
X03 - DUFORD 33,972 SF				\$1.40

DOR's Exhibit B is the property record card for the subject property. The property record card is summarized as follows:

Year Built - 1967
Effective Year - 1969
Physical Condition - Average
Quality Grade - Average
Condition/Desirability/Utility (CDU) - Average

Living Area - 1520 square feet
Percent good - 69% (depreciation - 31%)
Economic Condition Factor (ECF) - 107%
Other improvements - Concrete stoop, garage, driveway
Market value (land & improvements) - \$144,400

Ladner testified that the Montana Comparable Sales Sheet, Taxpayer's Exhibit 2, is what the DOR views as an excellent comparable sheet. All the indicators on this exhibit suggest that the comparable sales selected by the Computer Assisted Mass Appraisal System (CAMAS) properly valued the subject by the sales comparison approach to value.

BOARD'S DISCUSSION

The taxpayer presented property listings but could not say if these properties actually sold. There is nothing to suggest that these properties are comparable to the subject.

The taxpayer failed to present the Board with any support for her requested values of \$24,016 for the land and \$64,839 for the improvements.

Duford made reference to errors and computer "glitches" but gave no indication of any errors on the valuation of her property. The only specific error the taxpayer referred to was the wrong square footage of a neighboring property. There is no indication that the neighboring property was used to establish the market value for the subject. The taxpayer has not shown that the property is not at market value.

When the taxpayer's property is appraised at market value he cannot secure a reduction of his own assessment even if he is able to show that another taxpayer's property is under appraised. Patterson v. Department of Revenue, 171 Mont. 168, 557 P.2d 798 (1976).

The Montana Comparable Sales Sheet supports the DOR position its sales comparison approach has resulted in an appropriate market value for the subject. For the foregoing reasons, the appeal is hereby denied and the decision of the Lake County Tax Appeal Board is affirmed.

CONCLUSIONS OF LAW

1. The State Tax appeal Board has jurisdiction over this matter. **§15-2-302 MCA.**
2. **§15-8-111, MCA.** Assessment - market value standard - exceptions.
(1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that the taxpayer must overcome this presumption. The Department of Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. (Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967)).

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Lake County by the Assessor of said County at the 1998 tax year value of \$47,561 for the land and \$96,839 for the improvements, as determined by the DOR.

Dated this _____ of September, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

GREGORY A. THORNQUIST, Chairman

(S E A L)

JAN BROWN, Member

JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this ____ day of September, 1999, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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